

REMARKS/ARGUMENTS

The Examiner has delineated the following inventions as being patentably distinct:

Group I: Claims 1-3, drawn to a silicon carbide material; and

Group II: Claims 4-12, drawn to a process of manufacture.

Applicants provisionally elect, with traverse, Group II, Claims 4-12, in view of the following reasons:

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the Examiner if restriction is not required (M.P.E.P. § 803). The burden of proof is on the Examiner to provide reasons and/or examples to support any conclusions in regard to patentable distinction (M.P.E.P. § 803). Moreover, when making a lack of unity of invention, in a national stage application, the Examiner has the burden of explaining why each group lacks unity with each other group (i.e. why there is no single inventive concept) specifically describing the unique special technical feature in each group (M.P.E.P. § 1893.03(d)). Applicants respectfully traverse the Restriction Requirement on the grounds that the Examiner has not carried the burden of providing any reasons and/or examples to support any conclusions that the claims of the restricted groups are patentably distinct, or providing any reasons and/or examples to support any conclusion that the groups lack unity of invention.

The Examiner asserts that Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 and 13.2 because they lack the same corresponding special technical feature.

The Examiner, however, has not considered that the claims in each group are considered related inventions under 37 C.F.R. § 1.475(b) in which the inventions are considered to have unity of invention. Applicants submit that while PCT Rules 13.1 and 13.2 are applicable, 37 C.F.R. § 1.475(b) provides, in relevant part that “a national stage

application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn to (3) a product, process specially adapted for the manufacture of said product, and use of said product.” In the case of the instant application, Claims 1-3 are directed to silicon carbide material (product) and Claims 4-12 are directed to a process for the manufacture of silicon carbide material. The Examiner has failed to show that another process can be used to make the silicon carbide material. All of the claims share a special technical feature and that is the silicon carbide material and the preparation thereof.

Moreover, Applicants respectfully submit that a search of all the claims would not impose a serious burden on the Office. As the Office has not shown any evidence that a Restriction Requirement should be required when the International Preliminary Examination Report did not, restriction is believed to be improper.

For the reasons set forth above, Applicants request that the requirement for restriction be withdrawn.

Applicants request that if the invention of Group II is found allowable, withdrawn Group I, which includes the limitation of the allowable claims, be rejoined. M.P.E.P. § 821.04.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and an early notice of such action is earnestly solicited.

Respectfully submitted,

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